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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,276	12/31/2001	Ronald L. Edens	17,696	6825

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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,276

Applicant(s)

EDENS ET AL.

Examiner

Michele Kidwell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/31/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5-7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 11, 20 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 3, 11, 20 and 29 the applicant has claimed one widest portion in the respective independent claim. Following this, the applicant claims that the one widest portion is situated in a first end region. However, claims 3, 11, 20 and 29 now claim that the widest portion is also located in another region. Since only "the widest portion" and not "widest portions" have been claimed, it is not clear what the applicant intends to claim as an invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 4, 6 – 12, 14 – 15, 17 – 20, 22 – 30, 32 – 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlangen (US 5,618,282).

With respect to claims 1, 9, 18 and 27, Schlangen discloses an absorbent article comprising a fluid permeable cover (22), a liquid impermeable baffle (24) and an absorbent situated between the cover and the baffle (16), the absorbent article having a principal longitudinal axis and a principal transverse axis (figure 1) and being configured for disposition within the vestibule of a female wearer (col. 3, lines 31 – 34), the absorbent having a length, a widest portion, a width at the widest portion, a narrowest portion, a width at the narrowest portion, a thickness, first and second end regions and a central region disposed between the first and second end regions, first and second spaced apart longitudinal sides, and first and second spaced apart transverse ends, the longitudinal sides together with the transverse ends generally forming the periphery of the absorbent, wherein the widest portion of the absorbent is situated in a region other than the central region as set forth in col. 3, lines 23 – 25 and figure 1.

As to claims 2 – 4, 10 – 12, 19 – 20, 28 – 30, see col. 3, lines 23 – 25.

Regarding claims 6 and 7, Schlangen discloses an absorbent article wherein the cover and the baffle have peripheries which extend outward beyond the periphery of the absorbent and are at least partially joined to form an edge as set forth in col. 3, lines 38 – 44.

With reference to claims 8, 17, 26 and 35 see col. 4, lines 62 – 66.

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With respect to claim 14, Schlangen discloses an absorbent article further comprising a fluid permeable cover as set forth in col. 3, line 57 to col. 4, line 4.

As to claim 15, Schlangen discloses an absorbent article wherein the cover encloses the absorbent as set forth in figure 2.

With reference to claims 22 – 25 and 32 – 33, see figure 2.

Claims 1 – 5, 8 – 13, 16 – 21, 26 – 31 and 34 – 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Chappell (US 5,795,344).

With respect to claims 1, 9, 18 and 27, Chappell discloses an absorbent article comprising a fluid permeable cover (12), a liquid impermeable baffle (16) and an absorbent situated between the cover and the baffle (14), the absorbent article having a principal longitudinal axis and a principal transverse axis (figure 1) and being configured for disposition within the vestibule of a female wearer (col. 2, lines 64 – 67), the absorbent having a length, a widest portion, a width at the widest portion, a narrowest portion, a width at the narrowest portion, a thickness, first and second end regions and a central region disposed between the first and second end regions, first and second spaced apart longitudinal sides, and first and second spaced apart transverse ends, the longitudinal sides together with the transverse ends generally forming the periphery of the absorbent (figure 1), wherein the widest portion of the absorbent is situated in a region other than the central region as set forth in col. 3, lines 19 – 22.

Regarding claims 2 – 4, 10 – 12, 19 – 21 and 28 – 30, see col. 3, lines 19 – 22.

As to claim 5, 13, 16, 31 and 34, Chappell discloses an absorbent article wherein the cover and the baffle have peripheries which are coterminous with the periphery of the absorbent as set forth in col. 2, lines 45 – 47.

With respect to claims 8, 17, 26 and 35, Chappell discloses an absorbent article wherein the absorbent further comprises superabsorbent as set forth in col. 4, lines 28 – 32.

Claims 1 – 2, 4, 8 – 10, 12, 14 – 15, 17 – 19, 21 – 28, 30, 32 – 33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Fleming (US 2002/0115976).

With respect to claims 1, 9, 18 and 27 Fleming discloses an absorbent article comprising a fluid permeable cover, a liquid impermeable baffle and an absorbent situated between the cover and the baffle (col. 2, paragraph 0040), the absorbent article having a principal longitudinal axis and a principal transverse axis, and being configured for disposition within the vestibule of a female wearer, the absorbent having a length, a widest portion, a width at the widest portion, a narrowest portion, a width at the narrowest portion, a thickness, first and second end regions and a central region disposed between the first and second end regions, first and second spaced apart longitudinal sides, and first and second spaced apart transverse ends, the longitudinal sides together with the transverse ends generally forming the periphery of the absorbent, wherein the widest portion of the absorbent is situated in a region other than the central region as set forth in figures 4 – 15, 22, 24 – 25 and 28.

Fleming discloses an absorbent article comprising a fluid permeable cover, a liquid impermeable baffle and an absorbent situated between the cover and the baffle through the incorporation of Osborn, III et al. (US 5,968,026). Osborn, III et al. (hereinafter "Osborn") discloses an absorbent article comprising a fluid permeable cover, a liquid impermeable baffle and an absorbent situated between the cover and the baffle as set forth in col. 7, lines 31 – 37 and col. 11, lines 11 – 17.

Regarding claims 2, 10, 19 and 28 Fleming discloses an absorbent article wherein the widest portion of the absorbent is situated in the first end region as set forth in figures 4 – 15, 22, 24 – 25 and 28.

Regarding claim 4, 12, 21 and 30 Fleming discloses an absorbent article wherein the widest portion of the absorbent is situated in the second end region as set forth in figures 4 – 15, 22, 24 – 25 and 28.

As to claim 8, 17, 26 and 35 Fleming discloses an absorbent article wherein the absorbent further comprises a superabsorbent polymer through the incorporation of Osborn as set forth on page 2, paragraph 0040.

Osborn discloses an absorbent article comprising superabsorbent polymer as set forth in col. 7, lines 44 – 46.

With reference to claims 14 – 15 and 23 – 25, Osborn discloses an absorbent article further comprising a fluid permeable cover wherein the cover entirely encloses the absorbent as set forth in col. 7, lines 31 – 34.

Regarding claim 22, Osborn discloses an absorbent article wherein the absorbent has an upper surface (28) and a fluid permeable cover (38) residing on the upper surface of the absorbent as set forth in figure 2.

As to claim 32, Osborn discloses an absorbent article further comprising a liquid impermeable baffle as set forth in col. 11, lines 11 – 13.


With reference to claim 33, Osborn discloses an absorbent article wherein the cover encloses the absorbent as set forth in col. 7, lines 31 – 34.

Any inquiry concerning this communication, or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Michele Kidwell
March 30, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700